

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Michael D. James,)
)
Plaintiff,)
)
vs.)
)
Daniel Cotter, <i>Perry CI Contraband Sgt.</i> ;)
D. Burcinski, <i>Contraband Cpl.</i> ; S. Duffy,)
<i>Administrative Captain, Perry CI,</i>)
)
Defendants.)
)	

ORDER

Plaintiff Michael D. James, an inmate proceeding pro se, originally filed this action in the Greenville County Court of Common Pleas. (ECF No. 1). In his amended complaint, filed in federal court after the case was removed from state court, Plaintiff alleges violation of his constitutional rights pursuant to 42 U.S.C. § 1983. (ECF No. 19). This matter now comes before this Court for review of the Report and Recommendation (“the Report”) filed on January 9, 2015, by Magistrate Judge Bristow Marchant (ECF No. 20) to whom this case was previously assigned. In the Report, the Magistrate Judge recommends that the Court deny Plaintiff’s Motion for Summary Judgment without prejudice as prematurely filed. Plaintiff filed objections to the Report on January 22, 2015. (ECF No. 27).

The Court has reviewed the Report and the objections. In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections.... The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate

judge as to those portions of the report and recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of the standard set forth in Wallace, the Court has reviewed, de novo, the Report and the objections. After careful review of the Report and objections thereto, the Court hereby **ACCEPTS** the Report. The Plaintiff's objections (ECF No. 27) are **OVERRULED**. For the reasons stated in the Report, the Plaintiff's Motion for Summary Judgment (ECF No. 15) is **DENIED** without prejudice.

IT IS SO ORDERED.

June 5, 2015
Columbia, South Carolina

s/Terry L. Wooten
Chief United States District Judge